



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/268,080	03/12/99	LONKA	P 297-008554-N <i>T.R.</i>

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WM01/1016

EXAMINER

MALING, N	
ART UNIT	PAPER NUMBER

2681
DATE MAILED:

9
10/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/268,080

Applicant(s)

LONKA ET AL.

Examiner

Nay A. Maung

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 September 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: please see the attach.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 8-12.Claim(s) rejected: 1-7 and 15-19.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed 9/19/01 have been fully considered but they are not persuasive.

2. In the remarks, the applicant argued in substance:

"It is respectfully submitted that none of the references cited by the Examiner discloses or even remotely suggest applicants claimed invention...

It is respectfully strongly recommended that the Examiner again read applicants specification to familiar himself with the specific features of the present invention...

The examiner is again reminded that the present invention relates to the structure of a telescopically expanding telephone and to the location of it various elements...

The Examiner cites item 22 in Tsugane's fig. 1 as anticipating applicants' claimed "grip design" feature. Item 22 in Tsugane's fig. 1 is defined as a "lower housing" in Tsugane's description. Applicant fails to find any references whatsoever to grip designs...

Another major drawback of Tsugane's fig. 1 as a representative of the prior art that render the present invention obvious is the complete absence of any disclosure or suggesting...

Furthermore, it is respectfully submitted that the examiner admitted that the Tsugane reference is silent on the location of a battery in the portable telephone in fig. 1, and cites figs. 6B, 7 and 9 of Holshouser to make up for this deficiency in Tsugane." (pp. 1-7 of the applicant's argument).

In response to the argument, the examiner carefully read the applicant's specification in order to determine what is the applicant's invention. However, the

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examiner did not include all of the elements into the claim from the specification because the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. In addition, the applicant's claims does not include "the present invention relates to the structure of a telescopically expanding telephone and to the location of it various elements". Therefore, the claimed limitations are clearly read on the prior art of record.

The grip design of the applicant's claimed limitation clearly read on the Tsugane's reference, i.e., the broadest interpretation of the "grip design" is depicted in fig. 1, where the bottom part of the radio phone, the design which being a rectangle shape, and a user can grip on the rectangle shape.

Holshouser clear show the battery which is parallel to the keypad of the phone, fig. 6B; fig. 7, item 75; fig. 9, item 95 which clearly show the battery.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nay A. Maung whose telephone number is 703-308-7745. The examiner can normally be reached on 7:30 a.m. - 4:00 p.m., Monday - Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on 703-305-4778. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.


NAY MAUNG
PRIMARY EXAMINER
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October 15, 2001